IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2601 OF 2006

Kapoor Jewellers Pvt.Ltd. & Anr. Petitioners
vs.
The State of Maharashtra & ors. Respondents

Mr.A.H.H.Ponda for the petitioners.

Ms..P.H.Kantharia, APP for respondent 1.

CORAM : SMT.RANJANA DESAI &
ANOOP V. MOHTA,JJ.

DATED : 11th January, 2007

P.C.

In this petition the petitioners have challenged the Order of Attachment passed by respondent 3 dated 20th November 2006 which according to the petitioners is served on them on 22nd November 2006.

2. We have heard Mr.Ponda, the learned counsel appearing for the petitioners and Ms.Kantharia, the learned APP.

3. Ms.Kantharia, the learned APP raised a preliminary objection that an alternative remedy of appeal under Section 17 of Foreign Exchange Management Act, 1999 is available to the petitioners and therefore this petition may not be entertained.

4. Mr.Ponda, the learned counsel for the petitioners states that the adjudication order dated 29.9.2003 has not been served on the petitioners till date. He drew our attention to certain correspondence where the petitioners have stated that the relevant correspondence of the company may be forwarded at C/o.Ramesh K. Jani (Shah), 1501, Summer Tower '2', Love Lane, Mazgaon, Mumbai-10. He submitted that despite this the respondents are claiming that the adjudication order is forwarded at the place where the registered office of the petitioners was earlier situated. He submitted that in the circumstances the petitioners could not file appeal. He submitted that if the petitioners file appeal, the above facts will have to be taken into consideration and delay if any will have to be condoned.

5. In our opinion, if an alternative remedy is available, the petitioners must exhaust it. The present petition cannot be entertained. The petitioners have not preferred an appeal before the Appellate Authority. They may file the appeal if they so desire. So far as the aspect of the alleged delay in filing the appeal is concerned, if proper application for condonation is made, the Appellate Authority shall consider it in accordance with law after hearing both sides and in the light of correspondence to which our attention was drawn

by Mr.Ponda.

6. Ms.Kantharia, the learned APP states that the adjudication order will be made available to the petitioners today in the Office of the Enforcement Directorate. Mr.Ponda states that the representative of the petitioners shall go to the office of the Enforcement Directorate to collect the said copy and appeal will be filed before the Appellate Authority within 45 days from today.

7. Respondent 3 has been served by the petitioners' advocate, however, none is representing respondent 3.

8. For a period of 45 days from today status-quo as of today without prejudice to the rights and contentions of both sides be maintained.

9. Petition stands disposed of in the aforsaid terms.

[SMT.RANJANA DESAI,J.]

[ANOOP V. MOHTA,J.]